

113TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session 113–466

PROHIBITING IN-FLIGHT VOICE COMMUNICATIONS ON
MOBILE WIRELESS DEVICES ACT OF 2013

MAY 30, 2014.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3676]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom
was referred the bill (H.R. 3676) to establish a prohibition on cer-
tain cell phone voice communications during passenger flights, and
for other purposes, having considered the same, report favorably
thereon without amendment and recommend that the bill do pass.

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PURPOSE OF LEGISLATION

H.R. 3676 “Prohibiting In-Flight Voice Communications on Mobile Wireless Devices Act of 2013,” directs the Secretary of Transportation to issue regulations that prohibit the use of cell phones for voice communications during the in-flight portion of any scheduled domestic commercial flight. The bill provides an exemption for on-duty members of flight and cabin crews, as well as federal law enforcement personnel acting in an official capacity.

BACKGROUND AND NEED FOR LEGISLATION

In December 2013, the Chairman of the Federal Communications Commission (FCC) announced his intention to have the FCC vote whether or not to consider a rule change that would give airlines the ability to allow passengers to use their mobile devices to make voice calls in-flight. On December 12, 2013, the FCC voted in favor to consider the proposed change in FCC rules and on December 13, 2013 it issued a notice of proposed rulemaking on this issue. On February 14, 2014, the Department of Transportation issued an advanced notice of proposed rulemaking to solicit comments from the public on banning cell phone communications on aircraft. The FCC is responsible for addressing the technical aspect of using cell phones to make voice calls in-flight, whereas it is the responsibility of the Federal Aviation Administration (FAA) and the Department of Transportation (DOT) to address any safety impacts that may occur from using cell phones to make voice calls during flight. Neither the DOT nor the FCC has taken any additional further actions regarding this matter.

According to a Quinnipiac University poll conducted December 2013, 59 percent of Americans opposed allowing cell phone calls during flights, while only 30 percent supported allowing them. In addition, a December 2013 Associated Press poll found that 78 percent of frequent fliers oppose allowing in-flight phone calls. The potential safety concerns from allowing voice communications via cell phones on passenger aircraft have been raised by a variety of stakeholders, such as the DOT and flight attendants.

HEARINGS

On December 12, 2013 the Subcommittee on Aviation held a hearing titled the “State of American Aviation,” in which the topic of using cell phones for voice communications on scheduled domestic flights was discussed. No hearings were specifically held on H.R. 3676.

LEGISLATIVE HISTORY AND CONSIDERATION

On December 9, 2013, Representative Bill Shuster introduced H.R. 3676.

On February 11, 2014, the Committee on Transportation and Infrastructure met in open session and ordered the bill reported favorably to the House by voice vote with a quorum present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of

votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no record votes taken in connection with consideration of H.R. 3676 or ordering the measure reported. A motion to order H.R. 3676 reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in the report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 3676 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 6, 2014.

Hon. BILL SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3676, the Prohibiting In-Flight Voice Communications on Mobile Wireless Devices Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Megan Carroll (for federal costs), and Amy Petz (for the private-sector impact).

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 3676—Prohibiting In-Flight Voice Communications on Mobile Wireless Devices Act of 2013

H.R. 3676 would direct the Secretary of Transportation to issue regulations that prohibit air passengers from talking on cellular phones during domestic flights. The prohibition would not apply to members of the flight crew, flight attendants, or federal law enforcement agents who are on duty.

CBO estimates that enacting H.R. 3676 would have no significant impact on the federal budget. Based on information from the

Department of Transportation, we expect that promulgating the proposed regulations would cost less than \$500,000, assuming the availability of appropriated funds. H.R. 3676 would not affect direct spending or revenues; pay-as-you-go procedures do not apply.

H.R. 3676 would impose a private-sector mandate, as defined in the Unfunded Mandates Reform Act (UMRA), by prohibiting airline passengers from talking on cellular phones during a domestic flight. Under current law, airlines may choose to allow passengers to make voice calls over an in-flight Internet service (for example Skype), but in-flight voice calls on cellular phones are prohibited by the Federal Communications Commission (FCC). The FCC recently issued a proposed rule that would allow airlines to permit passengers to use cellular phones during a flight. If the FCC adopts the rule, the bill would impose a mandate by prohibiting passengers from engaging in all voice calls during a flight; if the FCC does not adopt the rule, only the prohibition on voice calls over an in-flight Internet service would constitute a mandate. In either case, CBO expects that the cost of the mandate would be small and fall below the annual threshold established in UMRA for private-sector mandates (\$152 million in 2014, adjusted annually for inflation).

The Department of Transportation (DOT) has issued a notice that it is also considering a ban on all in-flight voice calls by passengers as an unfair practice to consumers. If DOT, in the absence of the bill, determines to ban such calls, the bill would impose no private-sector mandates.

H.R. 3676 contains no intergovernmental mandates as defined in UMRA and would impose no cost on state, local, or tribal governments.

The CBO staff contacts for this estimate are Megan Carroll (for federal costs) and Amy Petz (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to direct the Secretary of Transportation to conduct a rulemaking to ban the use of cell phones for in-flight voice communications with certain exemptions.

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(j) of H. Res. 5, 113th Cong. (2013), the Committee finds that no provision of H.R. 3676 establishes or reauthorizes a program of the federal government known to be duplica-

tive of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKINGS

Pursuant to section 3(k) of H. Res. 5, 113th Cong. (2013), the Committee estimates that enacting H.R. 3676 directs the Secretary of Transportation to complete a rulemaking banning the use of in-flight voice communications on cell phones.

FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 3676 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

Section 1. Short title

This section provides that the short title of the bill is the “Prohibiting In-Flight Voice Communications on Mobile Wireless Devices Act of 2013.”

Section 2. Prohibition on certain cell phone voice communications

Creates a new section 41725, in Title 49 United States Code which—

a. Directs the Secretary of Transportation to issue regulations prohibiting an individual on an aircraft from using a cell phone during a domestic scheduled passenger flight, with exemptions applying to any member of the flight crew or flight attendant on duty on an aircraft, as well as federal law enforcement acting in an official capacity.

b. Defines the terms “flight” and “mobile communications devices.”

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE VII—AVIATION PROGRAMS

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PART A—AIR COMMERCE AND SAFETY

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SUBPART II—ECONOMIC REGULATION

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CHAPTER 417—OPERATIONS OF CARRIERS

SUBCHAPTER I—REQUIREMENTS

Sec.

41701. Classification of air carriers.

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41725. *Prohibition on certain cell phone voice communications.*

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SUBCHAPTER I—REQUIREMENTS

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§ 41725. Prohibition on certain cell phone voice communications

(a) *PROHIBITION.*—The Secretary of Transportation shall issue regulations—

(1) to prohibit an individual on an aircraft from engaging in voice communications using a mobile communications device during a flight of that aircraft in scheduled passenger interstate or intrastate air transportation; and

(2) that exempt from the prohibition described in paragraph (1) any—

(A) member of the flight crew on duty on an aircraft;

(B) flight attendant on duty on an aircraft; and

(C) Federal law enforcement officer acting in an official capacity.

(b) *DEFINITIONS.*—In this section, the following definitions apply:

(1) *FLIGHT.*—The term “flight” means, with respect to an aircraft, the period beginning when the aircraft takes off and ending when the aircraft lands.

(2) *MOBILE COMMUNICATIONS DEVICE.*—

(A) *IN GENERAL.*—The term “mobile communications device” means any portable wireless telecommunications equipment utilized for the transmission or reception of voice data.

(B) *LIMITATION.*—The term “mobile communications device” does not include a phone installed on an aircraft.

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